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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/541,094	03/31/2000	Peter H. St. George-Hyslop	1034/1F812-US2	4017

7590

09/23/2002

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EXAMINER

WOITACH, JOSEPH T

ART UNIT

PAPER NUMBER

1632

DATE MAILED: 09/23/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**Application No.  
**09/541,094**Applicant(s)  
**St. George-Hyslop et al.**Examiner  
**Joseph T. Weitach**Art Unit  
**1632**

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED Sep 12, 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid the abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

THE PERIOD FOR REPLY [check only a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see NOTE below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: Claim 52 recites new % homology limitation which was not previously searched or specifically considered requiring a new sequence search and consideration under 35 USC 112, 1st paragraph.

3. ☐ Applicant's reply has overcome the following rejection(s):

4. ☒ Newly proposed or amended claim(s) 47, 49, 50, and 56-61 would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See attached.

6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 46-50Claim(s) objected to: 52, 53, 56-58, 63, and 64Claim(s) rejected: 51, 54, 55, 59-62, and 65Claim(s) withdrawn from consideration: 19-28, 30, and 42

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner

9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

10. ☐ Other:

**DEBORAH CROUCH****PRIMARY EXAMINER****GROUP 1800/p30**

Art Unit: 1632

Section 4:

The proposed amendments to claims 47, 49, 50 and 56-61 put these claims in condition for allowance, and would be allowed if timely submitted as a separate amendment canceling all other pending claims. Because the after final amendment was not entered, it is noted that section 7 is a summary of the status of the claims as of the last office action.

Section 5(c):

With respect to priority, it is noted that SEQ ID NO: 13 (claim 49) is specifically claimed and only first disclosed fully in this application. Examiner would agree that priority would be extended to sub-sequences of SEQ ID NO: 13 which were fully disclosed in the previous priority document, however the priority of the claim is determined by what is claimed. Because SEQ ID NO: 13 is specifically claimed and it is first disclosed in the present application, the priority is to the filing date of the instant specification which fully supports the embodiments encompassed by this claim.

With respect to the rejections made under 35 U.S.C. 112, first paragraph, and the rejection made under 35 U.S.C. 102, the specific arguments are directed to the claim amendments which have not been entered. Therefore, for the reasons of record, the rejections are maintained.